

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
MRS. LEO J. GOEDEN,

Appellant,

v.

SPOKANE COUNTY AIR POLLUTION
CONTROL AUTHORITY,

Respondent.

PCHB No. 594

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

This matter, an appeal of a \$25.00 civil penalty for an alleged open fire in violation of Respondent's Regulation I came before the Pollution Control Hearings Board, Bernard G. Lonctot, hearing examiner, at a formal hearing in Spokane, at 11:00 a.m., August 14, 1974.

Appellant, Mrs. Leo J. Goeden, appeared pro se; Respondent, Spokane County Air Pollution Control Authority, appeared through its attorney, James Emacio. Jo Ann Ames, Spokane court reporter, recorded the proceedings.

Having read the transcript, and having seen the exhibits, and

1 considered the Exceptions, the Pollution Control Hearings Board makes
2 the following

3 FINDINGS OF FACT

4 I.

5 Appellant, Mrs. Leo J. Goeden, resides at East 3423 - 32nd Avenue
6 in Spokane. On an adjoining vacant lot, Appellant stores wood scraps
7 from a demolished building. She uses this scrap for firewood. On
8 April 17, 1974 the Appellant started three wood scrap fires in this
9 adjoining vacant lot.

10 II.

11 On April 17, 1974 at approximately 11:00 a.m., Doug Pottratz, a
12 chemist with the Spokane County Air Pollution Control Authority (SCAPCA)
13 visited Appellant's property in response to a telephone complaint. He
14 identified himself to Appellant as an inspector. He saw the three
15 fires that Appellant had ignited. He photographed the fires and issued
16 a notice of violation for the alleged violation. From this notice of
17 violation, Respondent issued a civil penalty for an amount of \$25.00
18 which is the subject matter of this appeal.

19 III.

20 Section 6.01A. of Respondent's Regulation I provides that:

21 It shall be unlawful for any person to ignite, cause to be
22 ignited, permit to be ignited, suffer, allow or maintain any
23 open fire within the jurisdiction of the Authority, except
24 for the following:

- 25 1. Fires set for religious ceremonies, recreational purposes
26 and the cooking of food for human consumption, provided
27 no nuisance is created.
2. Fires from flares, torches and waste gas burners.

27 . . .

FINAL FINDINGS OF FACT,

S F No 9926-A

CONCLUSIONS OF LAW AND ORDER

1 5. Open fires may be allowed by permit only:

2 IV.

3 Appellant's property and the adjoining lot are located within the no-
4 burn perimeter set forth in Respondent's Regulation I. The Spokane County
5 Air Pollution Control Authority's designation of the boundaries of its no-
6 burn area was made in March, 1974.

7 V.

8 The Appellant sought to comply with the applicable laws. She
9 called the Fire Department, the local newspaper, and SCAPCA. From
10 SCAPCA, she learned that warming and cooking fires are exceptions to
11 the open burning laws. However, Appellant's main purpose for the three
12 fires was to dispose of the "crummy stuff", i.e., that material unsuitable
13 for burning in the fireplace. Thus, the fires were waste disposal fires
14 and not fires within the exceptions provided in Respondent's Regulation I.

15 VI.

16 Any Conclusion of Law hereinafter deemed to be a Finding of Fact
17 is herewith adopted as same.

18 From these Findings, the Pollution Control Hearings Board comes
19 to these

20 CONCLUSIONS OF LAW

21 I.

22 Appellant's property is within the jurisdiction of SCAPCA and
23 subject to the restrictive open burning provisions of Respondent's
24 Regulation I.

25 II.

26 There was a violation of Section 6.01 of Respondent's Regulation I

27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 caused by Appellant on April 17, 1974.

2 III.

3 As to the reasonableness of the penalty, the Board feels mitigation
4 is required because (1) of the attendant confusion to a citation issued
5 only a month after setting of the no-burn area boundaries and (2) the
6 good-faith effort by appellant to learn applicable regulations.

7 IV.

8 Any Finding of Fact which should be deemed a Conclusion of Law is
9 hereby adopted as such.

10 Therefore, the Pollution Control Hearings Board issues this

11 ORDER

12 The appeal is denied, the Notice of Violation is sustained but
13 payment of the \$25.00 civil penalty is suspended pending no similar
14 violations for a period of six months from the date this Order becomes
15 final.

16 DONE at Lacey, Washington this 9th day of December, 1974.

17 POLLUTION CONTROL HEARINGS BOARD

18 Walt Woodward
19 WALT WOODWARD, Chairman

20 Chris Smith
21 CHRIS SMITH, Member

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24

25

26 FINAL

27 FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER